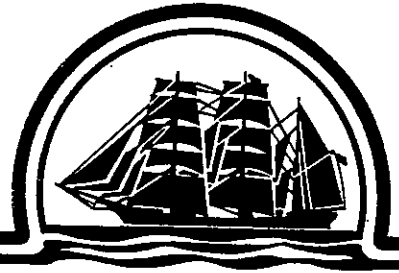


# City of Galveston



## Office of the City Secretary

P.O Box 779 Galveston, Texas 77553-0779 / (409) 797-3510 / Fax (409) 797-3511

November 1, 2015

Dear Recipient:

It is a pleasure to provide you with the following application and related information to apply for City of Galveston Hotel Occupancy Tax Funds.

The completed application and all attachments must be received by the City Secretary's Office no later than 5:00 P.M. on January 15, 2016. Please remember to submit three (3) copies of your entire application. Applications must be mailed or hand delivered to:

Nellie De La Fuente  
City of Galveston  
City Secretary's Office  
P.O. Box 779  
Galveston, TX 77553

A mandatory orientation meeting will be held December 9, 2015 at 4:00 p.m. in Room 204 at City Hall to acquaint applicants with the requirements for receiving hotel occupancy tax funds and to answer any questions regarding the application process. A representative of your organization must be present at the meeting on December 9, 2015.

It is the sole responsibility of each organization to meet all requirements. There will be no reminder calls or follow-up correspondence regarding deadline dates. Any late applicants for funding will not be considered.

If you have any questions, please feel free to contact my office.

Sincerely,

Nellie De La Fuente  
Assistant City Secretary

**ARTS AND HISTORIC PRESERVATION ADVISORY BOARD**

**APPLICATION FOR HOTEL OCCUPANCY TAX FUNDS**

Application for:

\_\_\_\_\_ Seed Funding

\_\_\_\_\_ Single Year Funding

\_\_\_\_\_ Multi-Year Funding

Organization Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip Code \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email Address: \_\_\_\_\_

Requested Amount \$ \_\_\_\_\_

Desired Distribution Date \_\_\_\_\_

(For Seed Funding Applicants Only)

Organization Fiscal Year \_\_\_\_\_ to \_\_\_\_\_

Date Organization Established: \_\_\_\_\_

Date Tax Exempt Status Granted: \_\_\_\_\_

Individual(s) Authorized to Sign Contract

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

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For Board Use Only

**1. MISSION AND PURPOSE OF ORGANIZATION**  
(One Page)

**2. SUMMARY OF PROPOSED ACTIVITY**

Describe in detail the proposed use of requested hotel occupancy tax funds. (One Page)

**3. ARTISTIC MERIT AND PROGRAM QUALITY**

Describe how your program meets the definition of ARTISTIC MERIT and PROGRAM QUALITY. (One Page)

**4. VISITOR APPEAL**

Describe how your program meets the definition of VISITOR APPEAL. (One Page)

**5. ADMINISTRATIVE ABILITY**

Describe how your organization meets the definition of ADMINISTRATIVE ABILITY.  
(One Page)

**6. NON-CASH CONTRIBUTIONS**

Describe the community's NON-CASH contribution to your organization, including gifts of goods and services and the estimated number of volunteer hours.



**7. REQUIRED ATTACHMENTS CHECKLIST**

APPLICATION IS INCOMPLETE WITHOUT THE FOLLOWING ATTACHMENTS:

- \_\_\_\_A. Section 501(C)(3) Federal Tax Exemption Letter or Application for Exemption
- \_\_\_\_B. Organization History and Philosophy
- \_\_\_\_C. Names and Addresses of Current Board of Directors
- \_\_\_\_D. List of Current Staff/Principal Volunteer List and Resumes of Principal Staff or Relevant Job Descriptions (No more than one page for resumes/job descriptions)
- \_\_\_\_E. List of Programs and Activities from the Past and Current Year, with Attendance Records.
- \_\_\_\_F. Samples of Marketing Materials, Publications, Educational Materials or other Items Produced by the Organization.
- \_\_\_\_G. FINANCIAL DOCUMENTATION:
  - 1. Annual budget based on a calendar year, including a detailed description of how hotel occupancy tax funds will be used. Line item detail is essential. If funds awarded are less than the organization's requested amount and changes to the scope of the approved project are necessary, a revised budget and explanation will be required within 15 days of notification of award.
  - 2. If prior recipient, proof that funds were kept in a separate account.
  - 3. If prior recipient, list of each year in which funds were received and amount received per year.
  - 4. If prior recipient, detailed description of how hotel tax funds (most recent year) were spent. Line item detail is essential.

8. **CERTIFICATION BY AUTHORIZING OFFICIALS**

By signing this application, we certify that the information contained in this Application, including all attachments and financial statements, is true and correct To the best of our knowledge.

President or Chairman of the Board:

Name (print or type) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Director of Organization or Project Director:

Name (print or type) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**PLEASE REMEMBER TO PROVIDE (3) COPIES OF YOUR SUBMISSION**

## Sec. 33-86. - Definitions.

As used in this article the following terms shall have the meanings respectively ascribed to them as follows:

*City* shall mean the City of Galveston, Texas, or its designated representative.

*City attorney* shall mean the city attorney of the City of Galveston or the designated representative.

*City auditor* shall mean the city auditor of the City of Galveston or the designated representative.

*Consideration* means the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and is two dollars (\$2.00) or more per day, but shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

*Convention center facilities* or *convention center complex* shall mean civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the city or other governmental entity or that are managed in whole or part by the city. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities.

*Director* shall mean the director of the department designated by the city manager to enforce and administer this article, or the city manager's designated representative.

*Hotel* means any building or buildings, trailer, or any other facility in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, bed and breakfast, condominiums, dormitories where bed space is rented, apartments not occupied by permanent residents, and all other facilities where rooms or sleeping facilities or space or other buildings where rooms are furnished for a consideration, but does not include:

- (1) Hospitals, sanitariums or nursing homes; or
- (2) A dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by V.T.C.A., Education Code § 61.003, when used by the institution for the purpose of providing sleeping accommodations for persons engaged in an education program or activity at the institution.

*Lodging provider* means any person owning, operating, managing or controlling a hotel in the city, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, lender in possession, licensee or any other person operating such hotel and who is subject to collecting and remitting the tax imposed upon guests.

*Occupancy* means the exclusive use or possession, or the exclusive right to use or possess, any room or rooms in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession or right to use or possession extends for a period of less than thirty (30) days.

*Occupant or guest* means any individual, corporation, governmental agency, partnership or association, who has paid consideration for the exclusive right to use, possess or has the exclusive right to use or possess any room or rooms of sleeping space or facility in a hotel under any lease, concessions, permit, right of access, license, contract or agreement.

*Permanent resident* means any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.

*Person* means any individual, company, corporation or association owning, operating, managing or controlling any hotel.

(Code 1960, § 20-39; Ord. No. 12-015, § 2, 3-22-12; Ord. No. 15-053, § 2, 6-25-15)

Sec. 33-87. - Levy of tax; rate.

- (a) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of two dollars (\$2.00) or more per day, such tax to be equal to seven (7) percent of the consideration paid by the occupant of such room to such hotel.
- (b) There shall also be levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of two dollars (\$2.00) or more per day, such tax to be equal to an additional two (2) percent of the consideration paid by the occupant of such room to such hotel as approved by the qualified voters of the city in a special election held on January 20, 2001, pursuant to Chapter 334 of the Local Government Code, which designated the Galveston Island Convention Center at the San Luis Resort as a "venue project" to be funded by the issuance of bonds pursuant to Chapter 351 of the Texas Tax Code.
- (c) No tax shall be imposed hereunder upon a permanent resident.

(Code 1960, 20-70; Ord. No. 81-63, 1, 8-13-81; Ord. No. 12-015, § 2, 3-22-12; Ord. No. 15-053, § 3, 6-25-15)

**Editor's note—** Ord. No. 12-015, § 2, adopted March 22, 2012, changed the title of section 33-87 from "Levy of tax; rate; exception" to "Levy of tax; rate." The historical notation has been preserved for reference purposes.

Sec. 33-88. - Collection.

Every person owning, operating, managing or controlling any hotel, shall collect the tax imposed in this article and pay and report the as required by this article. The director shall provide written notification to the city attorney of delinquent accounts that are thirty (30) days delinquent in the payment of taxes in the amount of one hundred dollars (\$100.00) or more or who have failed to report. The city attorney is authorized to take all necessary legal action, including filing litigation, without further authorization by city council.

(Code 1960, 20-71; Ord. No. 99-67, § 2, 8-12-99; Ord. No. 12-015, § 2, 3-22-12)

Sec. 33-89. - Availability of records, reports, and payments.

- (a) Each person required to collect the tax must make records available for inspection by the city auditor. The city auditor shall, upon reasonable notice, have access to books and records necessary to determine the correctness of a report filed under this article or the amount of taxes

due under this article. The director shall have authority to require additional information to determine the correctness of a report filed under this article or the amount of taxes due under this article. The city auditor shall report any amount of taxes, penalty and/or interest found due to the director for collection by the city.

- (b) Every person required to collect the tax imposed in this article shall file a monthly report with the director in the form required by the director accurately reflecting the amount of taxes owed, the amount collected, and the consideration paid for all room occupancies in the preceding month. This report shall be filed with the director no later than the twentieth (20th) day of the month following the reported monthly period. Persons that owe less [than] five hundred dollars (\$500.00) per month or less than one thousand five hundred dollars (\$1,500.00) per calendar quarter may file a quarterly report. The person filing the report shall pay the tax due at the time of filing such report.
- (c) The city is authorized to assess a twenty-five dollar (\$25.00) late fee to any person who fails to timely file a zero report for any property having no rental activity.
- (d) Persons may pay with credit cards and shall be charged a convenience fee based on the payment amount. All automated clearing house ("ACH") payments may be made and shall be charged up to a two dollars (\$2.00) fee per transaction regardless of the amount of the check.
- (e) The city is authorized to establish hotel occupancy tax payment options as allowed by law.  
(Code 1960, § 20-72; Ord. No. 89-16, § 2, 1-26-89; Ord. No. 12-015, § 2, 3-22-12; Ord. No. 15-053, § 4, 6-25-15)

**Editor's note**— Ord. No. 12-015, § 2, adopted March 22, 2012, changed the title of section 33-89 from "Reports and payments" to "Availability of records, reports, and payments." The historical notation has been preserved for reference purposes.

#### Sec. 33-90. - Rules and regulations.

The director shall have the power to make such rules and regulations necessary to effectively collect the tax penalty, and/or interest levied herein. The director is authorized to issue rules and regulations necessary to effectuate the full intent and purpose of this article concerning the information required on reports, the collection reporting periods, audits, the retention of records and the forcible seizure of records for auditing purposes, as allowed by law.

(Code 1960, § 20-73; Ord. No. 12-015, § 2, 3-22-12)

#### Sec. 33-91. - Penalties.

- (a) A person commits an offense if he:
  - (1) Fails to collect the tax imposed by this article;
  - (2) Fails to file a report as required by this article;
  - (3) Fails to pay the director the tax when payment is due;
  - (4) Files a false report; or
  - (5) Fails to comply with this article when purchasing a hotel.
- (b) An offense committed under subsection (a) of this section is punishable by a fine not to exceed five hundred dollars (\$500.00). Each day a violation is allowed to continue shall constitute a separate offense.
- (c)

In addition to any criminal penalties imposed under subsection (b) of this section, a person shall pay five (5) percent of the tax due as a penalty if the person fails to pay the tax or file the report as required by this article by the due date. An additional penalty of five (5) percent of the tax due shall be paid if the tax is not paid within thirty (30) days from the date the tax was due. Another penalty of five (5) percent of the tax due shall be paid if the tax is not paid within sixty (60) days from the date the tax was due. The penalties provided by this subsection may never be less than five dollars (\$5.00). Delinquent taxes shall draw interest at the rate of ten (10) percent per annum beginning sixty (60) days from the date the tax was due.

- (d) In addition to the amount of any tax owed, a person is liable to the city for all reasonable attorney's fees incurred by the city in enforcing this article against the person and in collecting any tax owed by the person under this article.
- (e) The director may release, relinquish, compromise and/or settle the penalty and/or interest due as a result of an act or omission of an employee or officer of the city.
- (f) This section shall not be construed to limit or restrict the city council's powers to release, relinquish, compromise and/or settle the penalty and/or interest due for delinquent hotel occupancy taxes as provided by the Texas Constitution or other applicable laws. All penalties shall be deposited into the city's settlement fund.

(Ord. No. 04-023, § 2, 2-12-04; Ord. No. 12-015, § 2, 3-22-12; Ord. No. 15-053, § 5, 6-25-15)

Sec. 33-92. - Distribution of tax proceeds.

The distribution of tax proceeds levied pursuant to Chapter 351 of the Tax Code, including penalties and interest, shall be expended for the following purposes:

- (1) Two-sevenths (2/7) and one-eighth (1/8) of one-seventh (1/7) for the Galveston Island Convention Center at the San Luis.
- (2) One-seventh (1/7) for beach maintenance/patrol.
- (3) (Reserved).
- (4) Three-sevenths (3/7) for advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities and for promotion of tourism and advertising of the city and its vicinity.
- (5) Seven-eighths (7/8) of one-seventh (1/7). Effective October 1, 2007 thirteen-sixteenths (13/16) of one-seventh (1/7) and effective October 1, 2009, reducing the distribution to sixth-eighths (6/8) of one-seventh (1/7) for organizations whose primary purposes are historical preservation and restoration, in the encouragement, promotion, improvement and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture design and allied fields, painting sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution and exhibition of these major art forms. Organizations for the receipt of distributors shall be selected based on criteria and procedures set forth in that document entitled "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation." Such document shall not be amended without city council approval.
- (6) Remaining unallocated tax proceeds shall be retained for subsequent appropriation in a separate city financial account(s) designated for uses as allowed by state law.

(Ord. No. 01-025, § 2, 4-12-01; Ord. No. 02-016, § 2, 2-14-02; Ord. No. 03-020, § 3, 3-13-03; Ord. No. 07-037, § 3, 5-10-07; Ord. No. 07-045, § 2, 6-14-07)

**Editor's note**— The document entitled "Criteria and Selection Procedures for Contributions for Hotel Occupancy Tax to Arts and Historical Preservation" has not been set out at length herein but can be obtained in the offices of the city.

**Cross reference**— Allocation of qualified art and historic organization, § 33-98.

Sec. 33-93. - Effective date of distribution to nonprofit organizations.

The provisions of subsection (b)(5) of section 33-29 shall become effective with taxes accruing on and after October 1, 1983.

(Ord. No. 83-31, § 1, 5-19-83)

Sec. 33-94. - Uses of tax funds.

Funds distributed pursuant to section 33-92(b)(5) shall be used for:

- (1) Advertising, marketing and promotion directed at visitors or potential visitors to Galveston, or
- (2) The production of special events with visitor appeal,

relating to historic preservation and restoration and to the arts; provided, however, that no part of these funds shall be spent on capital improvements.

(Ord. No. 83-34, § 1, 6-2-83; Ord. No. 83-92, § 1, 9-22-83)

Sec. 33-95. - Advisory board.

- (a) There is hereby created a board known as the arts and historical preservation advisory board which shall consist of seven (7) persons selected and appointed by the city council for overlapping terms of three (3) years, commencing November 1, of each year, as follows:

Three (3) board members shall be citizens-at-large (positions 1, 2, and 3); three (3) board members shall be nominated by the Hotel/Motel Association (Positions 4, 5, and 6); one (1) board member shall be nominated by the chamber of commerce (position 7); and one board member shall be an ex-officio, nonvoting member, who shall be a city council representative (position 8).

The first board shall serve as follows:

- (1) Positions 1 and 2: November, 1994 to November, 1995.
- (2) Positions 3 and 4: November, 1994 to November, 1996.
- (3) Positions 5, 6 and 7: November, 1994 to November, 1997.
- (4) Positions 8: November, 1994 until term as Councilmember expires or member otherwise ceases to serve as Councilmember. Thereafter, all members, except the ex-officio member, shall be appointed for a three-year term. "Term" shall be defined as November to November of each year. No member, except the ex-officio member, shall serve more than two consecutive terms. The ex-officio member shall serve a term as determined by city council. All appointments shall be made by city council and all terms shall be staggered. No board member, including the ex-officio member, shall be an employee or officer of any organization receiving or requesting funds. However, any board member, including the ex-officio member, may be a volunteer or board member of an organization requesting or receiving funds.

(b) All board members, including the ex-officio member, are expected to attend meetings on a regular basis and to participate in a fair share of applicant reviews and site visitations. Board members are subject to removal by city council for failure to attend board meetings, in accordance with section 2-164.

(c) A quorum shall consist of four (4) board members. An affirmative vote of four (4) board members shall be required to approve any action of the board.

(Ord. No. 83-34, § 1, 6-2-83; Ord. No. 83-92, § 1, 9-22-83; Ord. No. 84-122, § 1, 12-13-84; Ord. No. 88-23, § 1, 3-24-88; Ord. No. 88-82, § 1, 10-20-88; Ord. No. 93-77, § 2, 8-12-93; Ord. No. 95-62, § 2, 10-12-95; Ord. No. 96-63, § 3, 6-13-96; Ord. No. 07-037, § 2, 5-10-07)

Sec. 33-96. - Budgets of nonprofit organizations applying for funds.

Any entity receiving or applying to receive funds pursuant to subsection 33-92(b)(5) must first submit to the arts and historical preservation advisory board its annual budget, based on the entity's fiscal year, covering all operations of the entity. Each entity must also submit to the arts and historical preservation board, based on a fiscal year beginning October 1 and ending September 30, an annual detailed itemization of requested hotel/motel occupancy tax (HOT) projected revenues and proposed expenditures of such funds. No expenditure may be made by any recipient until its HOT itemized budget has been approved by the city council, and no funds derived hereunder may be pledged in advance, hypothecated or otherwise offered as security for any loan or other obligation except upon approval by the city council. Each detailed itemization submitted by an applicant shall pertain to revenues and expenditures for the fiscal year next ensuing and shall be submitted not later than thirty (30) days prior to October 1 commencement of such award period. Such submittals shall be on the form developed and provided by the advisory board. No tax funds shall be expended on preparation of such itemization or annual budget. Acceptance and approval of an applicant or recipient's itemization shall in no manner be construed as a guarantee or representation that such applicant or recipient will receive the amount of funds represented therein, and no claim for funds may be made against the city and/or park board of trustees for any hotel tax funds not actually received and collected.

(Ord. No. 83-34, § 1, 6-2-83; Ord. No. 83-93, § 1, 9-22-83; Ord. No. 93-77, § 2, 8-12-93; Ord. No. 93-89, § 2, 9-9-93; Ord. No. 07-037, § 2, 5-10-07)

Sec. 33-97. - Financial reporting requirements.

(a) Each recipient of funds hereunder shall submit to the city finance department a quarterly financial report, showing HOT budget and actual revenues and expenditures of such received funds, and verifying that all expenditures were made as authorized in the annual approved HOT itemized budget. The quarterly financial report shall be prepared on the cash basis of accounting. Any differences from the quarterly report and HOT bank account statement should be limited to deposits in transit and checks issued but outstanding at quarter's end. The report will be summarized on a form authorized by the arts and historical advisory board. The recipient's first three quarterly reports shall be submitted not later than sixty (60) days after the close of the city's quarter in accordance with the filing procedures described in the "Criteria and Selection Procedures for the Selection of Organizations". The final quarterly report, shall not be due until ninety (90) days after the close of the city's quarter. The end of each quarter is defined as December 31, March 31, June 30, and September 30 of the award year. If a recipient has not received any funds and has not made any expenditure of funds, the recipient shall submit a letter



stating that the recipient has not received any funds and has not made any expenditure for the preceding quarter. All organizations shall submit documentation in the quarterly reports that funds were and are maintained in separate banking accounts and are not co-mingled with other funds. Should a balance of unspent HOT be reported on the final (September 30) quarterly report, due December 29th, an itemized list of subsequent expenditures representing the use of such unspent HOT shall be included with the report.

- (b) In addition to quarterly financial reports, any recipient of funds receiving monies of over one hundred thousand dollars (\$100,000.00) must furnish the city finance department either an audited annual financial report or a report of findings in a format prescribed by the board based upon agreed upon procedures as further described in the "Criteria and Selection Procedures for the Selection of Organizations". At a minimum, such financial report shall be audited by a qualified firm of certified public accountants, and include the expression of an opinion relating to receipts of hotel motel tax and any expenditures of the same, along with any supporting documentation in accordance with generally accepted auditing standards. Alternatively, a recipient may provide a copy of the recipient's most recent annual audit based on the entity's fiscal year. No audited annual report will be accepted if older than one calendar year at the time of submission. This annual financial report shall be submitted no later than January 15 of the subsequent year in accordance with the filing procedures described in the "Criteria and Selection Procedures for the Selection of Organizations".
- (c) Multi-year allocation recipients shall submit an annual report to the finance department on or before January 15 of each year by 5:00 p.m., in accordance with the filing procedures described in the "Criteria and Selection Procedures for the Selection of Organizations". This annual report is separate from the quarterly expenditure report the recipient must submit to the city finance department and separate from the annual audited financial report that recipients of funds over one hundred thousand dollars (\$100,000.00) must submit. The purpose of the annual report is to be a reinforcement of the original application. The annual report shall be prepared on the accrual basis of accounting, shall include budgets based on approved annual itemized HOT revenues and expenditures, and shall state the organization's intended use of the funds has not changed from the use indicated on the entity's original application.
- (d) Failure to provide the required reports by the scheduled deadlines shall result in a percentage forfeiture of remaining funds for reports received up to thirty-one (31) days late, as detailed in the "Criteria and Selection Procedures for the Selection of Organizations". Failure to provide the required report after thirty-one (31) days of the scheduled deadline shall result in automatic forfeiture of remaining funds allocated for that award year.

(Ord. No. 83-34, § 1, 6-2-83; Ord. No. 83-92, § 1, 9-22-83; Ord. No. 89-38, § 2, 3-16-89; Ord. No. 96-63, § 4, 6-13-96; Ord. No. 97-20, § 3, 4-10-97; Ord. No. 03-020, § 2, 3-13-03; Ord. No. 06-096, § 2, 12-28-06; Ord. No. 07-037, § 2, 5-10-07)

ORDINANCE NO. 08-023

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE "CRITERIA AND SELECTION PROCEDURES FOR CONTRIBUTIONS OF HOTEL OCCUPANCY TAX TO ARTS AND HISTORICAL PRESERVATION" BY REQUIRING THAT ALL APPLICANTS AND CURRENT RECIPIENTS ATTEND A MANDATORY MEETING ON THE SECOND WEDNESDAY OF DECEMBER; PROVIDING A TEN PERCENT (10%) FUNDING FORFEITURE FOR ANY ORGANIZATION THAT FAILS TO HAVE A REPRESENTATIVE PRESENT AT SUCH MEETING; PROVIDING FOR CERTAIN CHANGES TO ADMINISTRATIVE PROCEDURES AND RECIPIENT REPORTING REQUIREMENTS; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

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WHEREAS, **Texas Tax Code**, Chapter 351, authorizes the City of Galveston to levy a hotel occupancy tax; and,

WHEREAS, Article III, Chapter 33, **The Code of the City of Galveston, 1982, as amended**, levies a hotel occupancy tax and provides for distribution of the receipts to entities that perform services that are appropriate under the enabling statutes; and,

WHEREAS, on November 17, 1994, City Council adopted Ordinance No. 94-72, which set forth the "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation" (the "Criteria"); and,

WHEREAS, on March 26, 2008, the board voted to recommend amending the Criteria to (1) require that all applicants and current recipients attend a mandatory meeting held in December; (2) impose a first-quarter 10% loss-of-funding penalty for any organization that fails to have at least one representative present at the mandatory meeting; and (3) other changes relating to administrative procedures and recipient reporting requirements; and,

WHEREAS, the City Council finds that it is in the public interest to amend the "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation";

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. That the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. That the "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation", as provided for in section 33-92(5), "Distribution of tax proceeds" of Chapter 33, "Taxation" of **The Code of the City of Galveston, 1982, as amended**, is hereby amended as provided in "**Exhibit A**", attached hereto and incorporated herein for all intents and purposes.

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SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of The City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption and may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of The Charter of the City of Galveston.

APPROVED AS TO FORM:

\_\_\_\_\_  
SUSIE GREEN  
CITY ATTORNEY

I, Barbara Lawrence, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at a regular meeting held on the 24th day of April 2008, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this \_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_.

\_\_\_\_\_  
Secretary for the City Council  
of the City of Galveston

**ORDINANCE NO. 15-076**

**AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE "CRITERIA AND SELECTION PROCEDURES FOR CONTRIBUTIONS OF HOTEL OCCUPANCY TAX TO ARTS AND HISTORICAL PRESERVATION" BY MODIFYING THE PROCEDURES FOR FILING APPLICATIONS AND SUBMITTING REPORTS TO THE CITY OF GALVESTON; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, Chapter 351 of the Texas Tax Code authorizes the City of Galveston to levy a hotel occupancy tax; and

**WHEREAS**, Article III of Chapter 33 of The Code of the City of Galveston, 1982, as amended, levies a hotel occupancy tax and provides for distribution of the receipts to entities that perform services that are appropriate under the enabling statutes; and

**WHEREAS**, on November 17, 1994, the City Council adopted Ordinance No. 94-72, which set forth the "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation" (the "Criteria"); and

**WHEREAS**, the last amendment to the Criteria was approved by the City Council on April 28, 2011, with the adoption of Ordinance No. 11-032; and

**WHEREAS**, after review of the current Criteria, Staff and the Arts and Historical Preservation Advisory Board (the "Board") have recommended changes to the procedures for filing applications and submitting reports in order to provide more effective and efficient means by which to process required documentation; and

**WHEREAS**, the City Council finds that it is in the public interest to amend the "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation" as recommended by City Staff and the Board; and

**WHEREAS**, the City Council finds that an applicant owing the City of Galveston any fines, fees, delinquent property taxes, or any other monies shall not be eligible for consideration or receipt of funding; and

**WHEREAS**, the City Council finds that a recipient owing the City of Galveston any fines, fees, delinquent property taxes, or any other monies shall forfeit all funding for the remaining award period.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:**

**SECTION 1.** That the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.** That the "Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation," as provided for in Section 33-92(5) "Distribution of tax proceeds" of Chapter 33 "Taxation" of The Code of the City of Galveston, 1982, as amended, is hereby amended as provided in **Exhibit A**, attached hereto and incorporated herein for all intents and purposes.

**SECTION 3.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

**SECTION 4.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 5.** In accordance with the provisions of Sections 12 and 13 of Article II of The City Charter this Ordinance has been publicly available in the Office of the City Secretary for not less than 72 hours prior to its adoption and may be read and published by descriptive caption only.

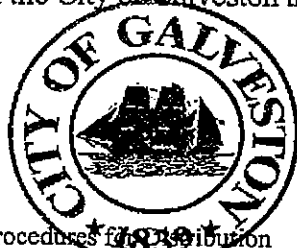
**SECTION 6.** This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of The Charter of the City of Galveston.


APPROVED AS TO FORM:

  
DONNA M. FAIRWEATHER  
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at a Regular Meeting held on the 24th day of September, 2015, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this 30th day of September, 2015.



  
Secretary for the City Council  
of the City of Galveston

## **EXHIBIT A**

### **ARTS & HISTORICAL PRESERVATION ADVISORY BOARD CRITERIA AND SELECTION PROCEDURES FOR CONTRIBUTIONS OF HOTEL OCCUPANCY TAX TO ARTS AND HISTORICAL PRESERVATION**

**As Amended September 24, 2015 ~~April 28, 2011~~**

The purpose of the Arts and Historic Preservation Advisory Board of the City of Galveston (Advisory Board) is to allocate hotel motel occupancy tax (HOT) funds to arts and historic preservation groups pursuant to section 33-92(b)(5) of **The Code of the City of Galveston, 1982, as amended**. Such groups shall be not-for-profit and shall be for the purpose of making Galveston more attractive to visitors by promoting and maintaining quality fine arts; historic preservation; performing arts organizations; and providing cultural events and museums. Organizations, which receive hotel/motel occupancy tax under any other section of Chapter 33 of **The Code of the City of Galveston, 1982, as amended**, are not eligible to apply for or receive additional funds pursuant to the criteria and selection procedures set forth below.

The application deadline for funds of any given fiscal year shall be January 15th of the prior fiscal year. All applications are due in the office of the City Secretary on or before January 15th of each year, by 5:00 p.m. in accordance with the filing procedures described in "**Attachment A.**" In the event January 15th falls on a weekend or City holiday, the application and report shall be due the next available business day.

All applicants and current recipients are required to attend both mandatory meetings. The mandatory annual orientation meeting shall be held at 4:00 p.m. on the second Wednesday of every December, and the mandatory July meeting shall be held at 4:00 p.m. on the second Wednesday of every July. If any entity fails to have at least one representative present at either of the mandatory meetings, such entity shall automatically forfeit ten percent (10%) of its first quarter funding allocation for the subsequent fiscal year, **with no exceptions granted**. Each violation of this provision shall constitute a separate offense and shall subject the violating entity to a separate penalty.

Additionally, each applicant organization is required to make a public presentation to the Advisory Board at a scheduled presentation meeting as part of the application process. Any applicant organization that fails to make the required presentation may be ineligible for consideration of funding in the given award year. **An applicant owing the City of Galveston any fines, fees, delinquent property taxes, or any other monies shall not be eligible for consideration or receipt of funding. A recipient owing the City of Galveston any fines, fees, delinquent property taxes, or any other monies shall forfeit all funding in the remaining award period.**

## **1. Eligibility Requirements**

### **A. General Eligibility Requirements for all organizations EXCEPT those applying for seed funding.**

Applicant organizations must:

1. demonstrates tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code;
2. have been in operation for at least one (1) calendar year before the grant application deadline;
3. produce financial statements showing activity for one (1) calendar year before the grant application deadline;
4. are governed by a Board of Directors that meets regularly. Board members' names and addresses shall be attached to the application;
5. the organization be based in Galveston. An organizational history/philosophy statement shall be attached to the application;
6. provide programs and events open to the appropriate public constituencies;
7. demonstrate that the request for hotel tax funds does not constitute more than 20 percent of the organizational budget; and
8. no applicant or recipient of funding shall owe the City of Galveston any fines, fees, delinquent property taxes, or any other monies. If any such delinquency occurs, the applicant will be ineligible for consideration or receipt of funding, and any recipient of funds shall forfeit same for the remaining award period.

The above requirements shall not apply to organizations applying for seed funding.

### **B. General Eligibility Requirements for organizations applying for SEED funding.**

Applicant organizations must:

1. demonstrates having obtained or having applied for Internal Revenue Code Section 501(c)(3) status;
2. be based in Galveston.

3. An organizational history/philosophy statement shall be attached to the application;
4. provide programs and/or events open to the appropriate public constituencies;
5. be governed by a Board of Directors that meets regularly. Board members' names and addresses shall be attached to the application;
6. demonstrate that the request for hotel tax funds does not constitute more than 50 percent of the organizational budget; and
7. no applicant or recipient of funding shall owe the City of Galveston any fines, fees, delinquent property taxes, or any other monies. If any such delinquency occurs, the applicant will be ineligible for consideration or receipt of funding, and any recipient of funds shall forfeit same for the remaining award period.

Any seed funding applicant that submits an application and that has not obtained Internal Revenue Code Section 501(c)(3) status, but has applied for such status must present to the City Finance Department proof of Internal Revenue Code Section 501(c)(3) status before any funds will be distributed to the seed funding applicant.

## **2. Allocations**

### **A. Multi-year Allocations**

1. Ninety-four percent (94%) of available funds shall be allocated for a three-year period. Funds shall be allocated on a percentage of taxes collected and distributed on a monthly basis.
2. Applicant organizations shall meet the general eligibility requirements in Section 1A above. The Advisory Board shall evaluate the applicant organizations based on the criteria for evaluation established in Section 6 of this document. To be eligible for consideration for multi-year funding, the applicant organization shall have previously been awarded one-year funding and successfully complied with all requirements for the prior single-year awards.
3. **Annual Report:** Multi-year allocation recipients shall submit an annual report to the City Finance Department on or before January 15th of each year by 5:00 p.m., in accordance with the filing procedures described in "Attachment B". In the event January 15th falls on a weekend or City holiday, the annual report shall be due the next available business day. This annual report is separate from the quarterly expenditure report the recipient must submit to the City Finance Department and separate from the annual audited financial report that recipients of funds over one hundred thousand dollars



(\$100,000) must submit. The annual report shall include a complete and duly executed copy of the Multi-Year Annual Report Form, attached hereto as "**Attachment G.**" The purpose of the annual report is to be a reinforcement of the original application. The annual report shall be prepared on the accrual basis of accounting, shall include budgets based on approved annual itemized HOT revenues and expenditures, and shall state the organization's intended use of the funds has not changed from the use indicated on the entity's original application.

Failure to submit the annual report on or before January 15th of each year shall result in the following percentage forfeiture of remaining funds for the next fiscal quarter, **with no exceptions granted:**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

**Failure to provide the annual report after 31 days shall result in automatic forfeiture of remaining funds allocated for that award year.**

The City shall retain any forfeited funds. The Arts and Historic Board may make recommendations to City Council for redistribution of all forfeited funds.

4. **Quarterly Expenditure Reports:** Multi-year allocation recipients must submit, in triplicate, a quarterly financial report to the City Finance Department showing HOT budget and actual revenues and expenditures of such received funds, and verifying that all expenditures were made as authorized in the annual approved HOT itemized budget. The quarterly financial report shall be prepared on the cash basis of accounting. Any differences from the quarterly report and HOT bank account statement should be limited to deposits in transit and checks issued but outstanding at quarter's end. The report will be summarized on a form authorized by the arts and historical advisory board. The recipient's first three quarterly reports shall be submitted not later than sixty (60) days after the close of the City's respective quarter in accordance with the filing procedures described in "**Attachment B.**" The final quarter report shall not be due until ninety (90) days after the close of the City's fourth quarter. The end of each quarter is defined as December 31, March 31, June 30, and September 30 of the award year. Such report shall be in substantially the same form as Attachment H. If a recipient has not received any funds and has not made any expenditure of funds, the recipient shall submit a letter stating that the recipient has not received any funds and has not made any expenditure for the preceding quarter. All organizations shall submit documentation in the quarterly reports that funds were and are maintained in separate banking accounts and are not co-mingled with other funds. All quarterly reports must be submitted with the "Hotel Occupancy Tax Recipient's Quarterly Expenditure Report Required Documentation Checklist" ("**Attachment F**"). Should a balance of unspent HOT be reported on the final (September 30) quarterly report, due December 29th, an itemized

list of subsequent expenditures representing the use of such unspent HOT shall be included with the report.

Failure to submit the 1st, 2nd or 3rd quarterly expenditure report within 60 days after the close of the City's respective quarter shall result in the following percentage forfeiture of remaining funds for the next fiscal quarter, **with no exceptions granted**:

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

**Failure to provide the quarterly expenditure report after 31 days shall result in automatic forfeiture of remaining funds allocated for that award year.**

**Failure to provide the final 4th quarterly expenditure report on or before December 29th shall result in the following percentage forfeiture of future funds of the next fiscal quarter in the event the organization applies and receives funding for the next fiscal year(s):**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

The City shall retain any forfeited funds. The Arts and Historic Board may make recommendations to City Council for redistribution of all forfeited funds.

**5. Annual Audited Financial Report.** In addition to quarterly financial reports, any recipient of funds receiving monies of over one hundred thousand dollars (\$100,000) must furnish the City Finance Department either an audited annual financial report or a report of findings in a format prescribed by the board based upon agreed upon procedures, which shall be in substantially the same form as the "Independent Accountant's Report" ("**Attachment E**"). At a minimum, such financial report shall be audited by a qualified firm of Certified Public Accountants, and include the expression of an opinion relating to receipts of hotel motel tax and any expenditures of the same, along with any supporting documentation in accordance with generally accepted auditing standards. Alternatively, a recipient may provide a copy of the recipient's most recent annual audit based on the entity's fiscal year. No audited annual report will be accepted if older than one (1) calendar year at the time of submission. All multi-year recipients receiving monies of over one hundred thousand dollars (\$100,000) must also attach a duly executed and notarized "Affidavit of Chief Executive Officer" ("**Attachment C**") and a duly executed "Independent Accountant's Report" ("**Attachment E**") to its annual audit report. "**Attachment E**" is not required for an entity electing to submit a copy of its most recent annual audit based on the entity's fiscal year. This annual financial report shall be submitted no later than January 15th of each year in accordance with the filing

procedures described in “Attachment B.” In the event January 15th falls on a weekend or City holiday, the report shall be due the next available business day.

Failure to submit the annual audited report, with all required attachments on or before January 15th of each year shall result in the following percentage forfeiture of remaining funds of the next fiscal quarter, **with no exceptions granted**:

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

**Failure to provide the annual audited report after 31 days shall result in automatic forfeiture of remaining funds allocated for that award year.**

The City shall retain any forfeited funds. The Arts and Historic Board may make recommendations to City Council for redistribution of all forfeited funds.

6. Multi-year recipients shall not apply for additional funding during their multi-year funding term.

7. The Advisory Board shall review multi-year allocations at the end of each three-year period, and make allocation recommendations for the following three-year period. Recommendations for multi-year allocations shall be made by April 15 of the year preceding the next three-year allocation period.

8. Multi-year recipients are required to attend the mandatory annual orientation meeting that will be held at 4:00 p.m. on the second Wednesday of every December and the mandatory July meeting held at 4:00 p.m. on the second Wednesday of every July. If any entity fails to have at least one representative present at either of the mandatory meetings, such entity shall automatically forfeit ten percent (10%) of its first quarter funding allocation for the subsequent fiscal year, **with no exceptions granted**. Each violation of this provision shall constitute a separate offense and shall subject the violating entity to a separate penalty.

**B. Single-year Allocations** – Five-percent (5%) of available funds shall be allocated on an annual basis. The award year shall run concurrent with the City of Galveston fiscal year, unless otherwise approved by City Council. Distribution of funds shall be made as available during the award year subsequent to the allocation approval by City Council. Single-year allocations and seed funding allocations will be a percentage amount as determined by the Board.

Each single-year fund recipient shall submit, in triplicate, a quarterly financial report to the City Finance Department showing all revenues and expenses of received funds, and verifying that all expenses were made as authorized in the approved budget. The first three quarterly reports shall be submitted not later than sixty (60) days after the

close of the City's respective quarter in accordance with the filing procedures described in **"Attachment B."** The end of each quarter is defined as December 31, March 31, June 30, and September 30 of the award year. The fourth and final quarterly report shall be due within 90 days after the close of the City's fourth quarter (i.e., December 29th). Such reports shall be in substantially the same form as Attachment H. If a recipient has not received any funds and has not made any expenditure of funds, the recipient shall submit a letter stating that the recipient has not received any funds and has not made any expenditure for the preceding quarter. All organizations shall submit documentation in the quarterly expenditure reports that funds were and are maintained in separate banking accounts and are not co-mingled with other funds. All quarterly reports must be submitted with the "Hotel Occupancy Tax Recipient's Quarterly Expenditure Report Required Documentation Checklist" (**"Attachment F"**).

Failure to submit the 1st, 2nd or 3rd quarterly expenditure report within 60 days after the close of the City's respective quarter shall result in the following percentage forfeiture of remaining funds of the next fiscal quarter, **with no exceptions granted:**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

**Failure to provide the quarterly expenditure report after 31 days shall result in automatic forfeiture of remaining funds allocated for that award year.**

**Failure to provide the 4th quarterly expenditure report on or before December 29th shall result in the following percentage forfeiture of future funds of the next fiscal quarter in the event the organization applies and receives funding for the next fiscal year:**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

The City shall retain any forfeited funds. The Arts and Historic Board may make recommendations to City Council for redistribution of all forfeited funds.

**C. Seed Funding Allocation** – One percent (1%) of funds shall be allocated annually to organizations that are starting new events, programs, museums, or fine arts, or performing arts activities. Applicant organizations shall meet the general eligibility requirements in Section 1B above. Organizations cannot apply for seed funds for the same event, program or activity for more than

two consecutive years. Any fund balance of the seed funding allocation may be evaluated and recommended for expenditure by the Board.

Each seed fund recipient shall submit, in triplicate, a quarterly financial report, to the City Finance Department showing all revenues and expenses of received funds, and verifying that all expenses were made as authorized in the approved budget. The first three quarterly reports shall be submitted not later than sixty (60) days after the close of the City's respective quarter in accordance with the filing procedures described in **"Attachment B."** The end of each quarter is defined as December 31st, March 31st, June 30th, and September 30th of the award year. The fourth and final quarterly report shall be due within 90 days after the close of the City's fourth quarter (i.e., December 29th). Such reports shall be in substantially the same form as **"Attachment H."** If a recipient has not received any funds and has not made any expenditure of funds, the recipient shall submit a letter stating that the recipient has not received any funds and has not made any expenditure for the preceding quarter. All organizations shall submit documentation in the quarterly expenditure reports that funds were and are maintained in separate banking accounts and are not co-mingled with other funds. All quarterly reports must be submitted with the "Hotel Occupancy Tax Recipient's Quarterly Expenditure Report Required Documentation Checklist" (**"Attachment F"**).

Failure to submit the 1st, 2nd or 3rd quarterly expenditure report within 60 days after the close of the City's respective quarter shall result in the following percentage forfeiture of remaining funds of the next fiscal quarter, **with no exceptions granted:**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

**Failure to provide the quarterly expenditure report after 31 days shall result in automatic forfeiture of remaining funds allocated for that award year.**

**Failure to provide the 4th quarterly expenditure report on or before December 29th shall result in the following percentage forfeiture of future funds for the next fiscal quarter in the event the organization applies and receives funding for the next fiscal year:**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

The City shall retain any forfeited funds. The Arts and Historic Board may make recommendations to City Council for redistribution of all forfeited funds.

### **3. Application Deadline and Fund Allocation**

All applications are due in the office of the City Secretary on or before January 15 by 5:00 p.m. of each year in accordance with the filing procedures described in "**Attachment A.**" In the event January 15th falls on a weekend or City holiday, the application and report shall be due the next available business day. The Advisory Board shall hold a mandatory orientation meeting for all new applicants and current recipients to explain and answer questions on the application process.

Before submission of applications, applicant organizations shall attend the orientation program scheduled by the Advisory Board. Additionally, applicant organizations shall make a public presentation to the Advisory Board at a scheduled presentation meeting during the application process. Any applicant organization that fails to make the required presentation may be ineligible for consideration for funding in the given award year. Decisions regarding allocations will be announced by the Advisory Board on or before April 1 of each year. If funds awarded are less than the organization's request and the organization changes the scope of the approved project, a revised budget shall be submitted to the Advisory Board within 15 days of notification of the award.

If the organization changes the scope for any reason other than that stated above, the organization shall submit a revised budget to the Advisory Board within 15 days of the change.

### **4. Use of Funds**

Organizations shall use all funds allocated for the:

- promotion and production of fine arts activities, museums, special events, and programs with demonstrable visitor appeal and relating to the major art forms, including, but not limited to, painting, sculpture, music, theater and dance; or
- historic preservation and restoration projects or activities frequented by tourists and visitors to the City.
- recipients shall affix the "Supported by Hotel/Motel Tax Dollars" Logo ("**Attachment D**") to all advertising and printed materials, with the exception of classified ads.

## **5. Financial Documentation Required to Apply for Funding**

All applying organizations shall include with their application to the Advisory Board a proposed annual budget. The proposed budget shall include an itemized description of how the organization shall spend the hotel tax funds during the award year. The proposed budget may include a request to be reimbursed for any permissible expenditure made within a 90-day time frame either immediately preceding or succeeding September 30th. Such a request must be accompanied by supporting financial documentation and cannot involve an expenditure of any other funds received under Section 33-92(b)(5) of **The Code of the City of Galveston 1982, as amended**. If funds awarded are less than the organization's request and the organization changes the scope of the approved project, the organization shall submit a revised budget and explanation to the Advisory Board within 15 days of notification of the award.

## **6. Criteria for Evaluation**

The following criteria are intended to encourage organizations to reach the highest artistic, programmatic and organizational standards. All applications shall be ranked by the Board based on the following criteria:

- Program quality (40 points) and;
- Visitor appeal (40 points) and;
- Administrative ability (20 points)

The Advisory Board shall use the above criteria and award points based on the Advisory Board's site visits and the organization's application.

Following are general guidelines applicable to each component of the Advisory Board's criteria:

### **A. Program Quality (40 Points):**

- Activities are of high artistic and/or programmatic quality as perceived by peers, critics and others, as appropriate;
- innovative and creative programs;
- vision and leadership demonstrated by the organization;
- activities that further applicant's artistic and/or programmatic goals and objectives;
- effective use of community resources; and

- quality of marketing materials used for promotional purposes, and the scope of distribution of those materials. (Organizations should provide examples with the applications).

**B. Visitor appeal (40 points):**

- Organization's commitment to attract visitors;
- verifiable information regarding the organization's ability to attract visitors. (Organizations should provide attendance statistics with the applications);
- number of days per year attractions are open to the public; number of events and/or programs open to the public. (Organizations should provide a list of programs and activities with applications); and
- verifiable attendance figures at events, programs and attractions with differentiation between attendance coming from off-island and on-island.

**C. Administrative ability (20 points):**

- A continuing history of growth, stability and vision;
- a long-range and/or short-range plan;
- a governing board that is representative of the community, meets regularly, and sets policies for the organization;
- evidence of ability to deliver services effectively, including qualified staff and volunteers;
- realistic budget and accurate appropriate financial reports;
- diverse funding sources, both earned and unearned and both public and private;
- effective use of available resources;
- demonstrated effective use of hotel tax funds in the past and/or effective proposed utilization of future tax funds;
- a demonstration of efforts to involve individuals of diverse ethnic backgrounds;
- demonstrated willingness to collaborate with other groups;
- responsiveness to needs of culturally under-served audiences; and



- community contributions to the organization.

## **7. Evaluation and Award of Funds**

A. Immediately following the January 15th application deadline, the Advisory Board shall assign site visit responsibilities for all applicant organizations. Advisory Board members shall review the applications, ascertaining that all required documentation has been provided, and schedule a site interview with appropriate representatives of the applicant organization. A minimum of two Advisory Board members shall be assigned to each applicant organization, ensuring that at least two Advisory Board members are intimately familiar with the operations and the application of each organization.

B. The Advisory Board shall schedule public hearings on or around March 15th of each year in which applicants shall be allowed to publicly address the Advisory Board. All applicants will be notified of the hearing date and all applicants shall address the Advisory Board during the public hearings. The Advisory Board shall make all funding recommendations to City Council, based on the ranking of organizations pursuant to the award of criteria points outlined above. City Council shall make all funding awards, and Council's decisions shall be final.

C. Each recipient shall execute a contract with the City of Galveston and comply with all City and State expenditure reporting requirements. The Grantee shall provide two (2) authorized signatures.

D. The Advisory Board shall hold a mandatory meeting for all entities who have been awarded funding by City Council. The purpose of the meeting shall be to instruct all recipients on the reporting requirements of both the Advisory Board and City Finance Department and to give an overview of the process of distribution. Each recipient shall have two (2) representatives present at the meeting who shall have authority to execute the contract with the City of Galveston. The Advisory Board shall hold the meeting at 4:00 p.m. on the second Wednesday of the July immediately preceding the year of award. If any entity fails to have at least one representative present at the mandatory meeting, such entity shall automatically forfeit ten percent (10%) of its first quarter funding for the subsequent fiscal year, **with no exceptions granted.**

E. It is the sole responsibility of the recipient to comply with all requirements of disbursement of hotel/motel occupancy funds and to obtain the funds within the year of allocation. Failure to comply may result in the withholding of future disbursements. All entities that are awarded funds must obtain all eligible allocated funds by September 30th of the award year. Pursuant to Ordinance No. 95-63, adopted by City Council on October 12, 1995, any funds that have not been disbursed to an entity by September 30th of the award year shall automatically be declared forfeited. The Arts and Historic Preservation Board may make recommendations to City Council for redistribution of all forfeited funds.

**8. Redistribution of forfeited funds:**

(A) Allocated funds shall be forfeited to the City in the event the following occurs:

- (1) the organization awarded the funds uses the funds for a purpose not approved by the Advisory Board;
- (2) the organization awarded the funds fails to use the funds by the end of the fiscal year for which the funds were awarded, provided the organization did not receive Advisory Board and City Council approval to carry funds forward into the next fiscal year pursuant to Section 8 (C) below.
- (3) an organization ceases to qualify for the allocated funds; or,
- (4) an organization fails to provide the annual report, quarterly expenditure report, or annual audited report after 31 days of the reporting deadline, the organization shall forfeit the remaining funds allocated for that award year.

(B) Organizations that fail to provide required reports within 31 days of the reporting deadline shall forfeit the following percentage of remaining funds of the current fiscal year:

(1) Multi-year allocation recipient's failure to submit the annual report on or before January 15th of each year shall result in the following percentage forfeiture of remaining funds of the next fiscal quarter, **with no exceptions granted**:

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

(2) Recipients that receive monies of over one hundred thousand dollars (\$100,000) annually and fail to submit the annual audited report on or before January 15th of each year shall result in the following percentage forfeiture of remaining funds of the next fiscal quarter, **with no exceptions granted**:

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

(3) Multi-year organizations failure to submit the 1st, 2nd or 3rd quarterly expenditure report within 60 days after the close of the City's respective quarter shall

result in the following percentage forfeiture of remaining funds of the next fiscal quarter, **with no exceptions granted:**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

Failure to provide the final 4th quarterly expenditure report within 90 days of the close of the City's fourth quarter (December 29th) shall result in the following percentage forfeiture of future funds of the next fiscal quarter in the event the organization applies and receives funding for the next fiscal year(s):

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

(4) Single year and seed funding organizations failure to submit the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> quarterly expenditure report within 60 days after the close of the City's respective quarter shall result in the following percentage forfeiture of remaining funds of the next fiscal quarter, **with no exceptions granted:**

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

Failure to provide the 4th quarterly expenditure report within 90 days after the close of the City's fourth quarter (i.e., December 29th) shall result in the following percentage forfeiture of future funds for the next fiscal quarter in the event the organization applies and receives funding for the next fiscal year:

1 to 7 days	10 % forfeiture
8 to 14 days	15 % forfeiture
15 to 21 days	20 % forfeiture
22 to 31 days	25 % forfeiture

(C) If allocated funds that are forfeited have not been distributed to the organization, the undistributed funds shall be retained by the City. If allocated funds have been distributed to the organization and are subsequently forfeited, the organization shall return the forfeited funds to the City. An organization may request permission to carry forward distributed funds into a subsequent fiscal year, but only in extraordinary circumstances (for example, the threat of an impending natural disaster). The Advisory Board and City Council must approve of such a request prior to the end of the fiscal year in which the

funds were received. In the event the Advisory Board or City Council denies such a request, the funds shall be forfeited in accordance with Section 8(A)(b) above.

(D) The Advisory Board may recommend to City Council how and when forfeited funds should be redistributed. The Advisory Board may recommend one or more of the following:

- (1) redistributing the funds to an organization approved and receiving funds for the fiscal year;
- (2) redistributing the funds to a qualified organization that applied for funds but was not awarded funds;
- (3) retaining the funds for future distribution to qualified organizations; or,
- (4) distributing the funds to qualified and approved organizations that may not be receiving funds for the fiscal year.

## ATTACHMENT A

### **CITY SECRETARY'S OFFICE PROCEDURES FOR RECEIVING DOCUMENTS RELATED TO THE ARTS AND HISTORIC PRESERVATION ADVISORY BOARD**

1. The City Secretary's Office receives applications for hotel occupancy tax funding from organizations granted funding by the Arts and Historic Preservation Advisory Board (AHPAB). The application is due January 15th of each year, by 5:00 p.m. In the event January 15th falls on a weekend or City holiday, the application and report shall be due the next available business day by 5:00 p.m. Do NOT submit any financial reports due in the Finance Department to the City Secretary's Office. Doing so may result in a complete or partial loss of funding.
2. Upon receipt of an application, an employee of the City Secretary's Office will date-stamp and initial the documents and provide the organization submitting the document a copy of the stamped page for the organization's records. The date-stamp shall serve as the official record of receipt for purposes of computing filing deadlines.
3. The City Secretary will provide the AHPAB ~~eight (8)~~ three (3) copies of all applications received. The organization is responsible for providing all ~~eight (8)~~ three (3) copies to the City Secretary.
4. The City Secretary shall provide notice of the availability of HOT funds, the date and time of the annual orientation meeting, and the application deadline in a newspaper of general circulation at least 30 days prior to the December annual orientation meeting.

## ATTACHMENT B

### **FINANCE DEPARTMENT PROCEDURES FOR HOTEL OCCUPANCY TAX RECIPIENTS ARTS AND HISTORIC PRESERVATION ADVISORY BOARD**

1. The Finance Department receives the quarterly reports from organizations that receive hotel occupancy tax funding. The 1st, 2nd, and 3rd quarterly reports are due, ~~in triplicate~~, within sixty (60) days after the close of the City's respective quarter. Reports received by the Finance Department after 5:00 p.m. on the 60th day are considered late. Such reports shall be in substantially in the same form as **Attachment H**. The 4th and final quarterly report is due 90 days after the close of the City's fourth quarter (i.e., December 29th). Any fourth quarter report received by the Finance Department after 5:00 p.m. on the 90th day is considered late. All reports are to be submitted via email to Arts&Historic@cityofgalveston.org by the stated due dates. All late reports are subject to the automatic forfeiture provisions provided by the Criteria.
2. ~~Once three (3) copies of the quarterly report have been submitted with the "Hotel Occupancy Tax Recipient's Quarterly Expenditure Report Required Documentation Checklist" (Attachment 'F'), staff will stamp the date the report was received, initial by the person who receives the report, and submit a copy of the stamped page to the organization for their records. The date stamp shall serve as the official record of receipt for purposes of computing filing deadlines. Do NOT submit any financial reports due in the Finance Dept. to the City Secretary's Office. Doing so may result in a complete or partial loss of funding. a confirmation email will be sent with the date and time received. This email shall serve as the official record of receipt for purposes of computing filing deadlines.~~
3. ~~Finance Department staff will then send a letter to the Park Board of Trustees indicating that the arts funding recipient has complied with the terms of their agreement by submitting their quarterly reports and it is okay to release funds.~~
4. ~~Finance Department staff will continue to keep the Board updated as to who has submitted quarterly reports.~~
- 5.3. The Finance Department receives the annual audited financial report from organizations that receive monies of over one hundred thousand dollars (\$100,000). Annual audited financial reports are due by the close of business on or before January 15th of each year. In the event January 15th falls on a weekend or City holiday, the application and report shall be due the next available business day by 5:00 p.m.
- 6.4. ~~Once the annual audited report has been submitted, staff will stamp the date the report was received, initial by the person who receives the report, and submit a copy~~

of the stamped page to the organization for their records a confirmation email will be sent with the date and time received. The date stamp email shall serve as the official record of receipt for purposes of computing filing deadlines.

- ~~7. Finance Department staff will then send a letter to the Park Board of Trustees indicating that the arts funding recipient has complied with the terms of their agreement by submitting their annual audited report and it is okay to release funds.~~

8.5. The Finance Department receives the annual report from multi-year organizations. The annual report shall be an organizational statement, and shall include a complete and duly executed copy of the Multi-Year Annual Report Form, attached hereto as **"Attachment G."** The purpose of the annual report is to be a reinforcement of the original application. The annual report shall be prepared on the accrual basis of accounting, shall include budgets based on approved annual itemized HOT revenues and expenditures, and shall state the organization's intended use of the funds has not changed from the use indicated on the entity's original application. Reports received by the Finance Department after 5:00 p.m. on January 15th are considered late. In the event January 15th falls on a weekend or City holiday, the annual report shall be due the next available business day by 5:00 p.m.

- ~~9.6. Once three (3) copies of the annual report have been submitted by the organization, staff will stamp the date the report was received, initial by the person who receives the report, and submit a copy of the stamped page to the organization for their records a confirmation email will be sent with the date and time received. The date stamp email shall serve as the official record of receipt for purposes of computing filing deadlines.~~

- ~~7. Finance Department staff will then send a letter notification to the Park Board of Trustees indicating that the arts funding recipient has complied with the terms of their agreement by submitting their quarterly and/or annual reports, and it is okay to release funds.~~

- ~~10.8. Finance Department staff will continue to keep the Board updated as to which organizations have submitted quarterly reports.~~

9. The Finance Department is responsible for notifying organizations of forfeitures for failure to comply with reporting deadlines.

10. If at any time reporting via email is infeasible, hard copies of the report(s) are due to the Finance Department where they will be date-stamped and initialed by City staff. The organization representative will sign in the report(s) on a sign-in sheet. The date-stamped copy shall serve as the official record of receipt for purposes of computing filing deadlines.

11. Do NOT submit any financial reports to the City Secretary's Office. All financial reports are due to the City's Finance Department and failure to submit report(s) to that department may result in a complete or partial loss of funding.



**STATE OF TEXAS** §  
**COUNTY OF GALVESTON** §

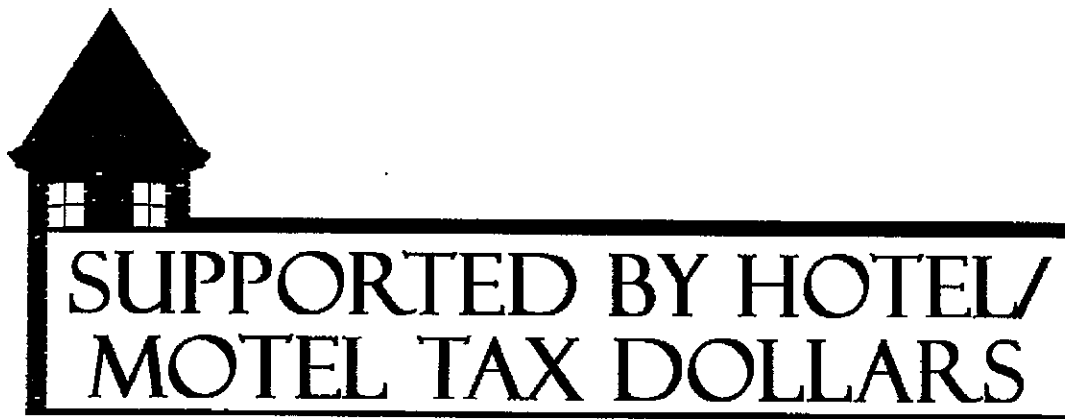
REGARDING THE ANNUAL AUDITED FINANCIAL REPORT AND ACTIVITIES OF  
THE FOLLOWING HOTEL/MOTEL TAX RECIPIENT:

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**ATTACHMENT D**

**LOGO**

All recipients receiving monies from Hotel/Motel Occupancy Tax Dollars shall affix the following "Supported by Hotel/Motel Tax Dollars" Logo to all advertising and printed materials, with the exception of classified ads. (A copy of which is available in the Office of the City Secretary):



## **ATTACHMENT E**

### **ILLUSTRATIVE INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES WHERE FINANCIAL STATEMENTS ARE INCLUDED THAT WERE PROVIDED BY THE ENTITY AND NOT COMPILED BY THE ACCOUNTANT**

#### **Independent Accountant's Report**

To the Specified Users of the Report:

Members of City Council  
Galveston, Texas

Members of the Arts and Historical Preservation Advisory Board  
Galveston, Texas

We have performed the procedures enumerated below which were agreed to by the specified users of the report, as identified above, and as defined within the applicable state laws of the State of Texas solely to assist the City and Board in meeting its financial accountability requirements as prescribed by Texas Statutes §351-101(4), §351-101(5), City Code §33-96, §33-97 and evaluating compliance with specified legal or contractual requirements for the fiscal year ended September 30, 20XX. Management of the City of Galveston is responsible for the City's financial accountability and its compliance with those legal and contractual requirements. This agreed-upon procedures engagement was conducted in accordance with the attestation standards established by the American Institute of Certified Public Accountants and the fieldwork and reporting standards applicable to attestation engagements as contained in *Government Auditing Standards* of the Comptroller General of the United States of America. The sufficiency of the procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

#### **Procedures and Findings**

As to the **City of Galveston**, through the Arts and Historical Preservation Advisory Board, as of and for the fiscal year ended September 30, 20XX:

1. **Procedures Performed:** From the (named recipient) \_\_\_\_\_, we obtained the quarterly expenditure reports (see accompanying Exhibit 1) and compared the schedule results to the statutory requirements to report any noted instances of noncompliance.

**Findings:** *(Findings, other than those of no instances noted, should be reported in the manner identified in accordance with AICPA standards where applicable – criteria, condition, cause, effect, recommendation, management's views and planned corrective action)*

2. **Procedures Performed:** From the (named recipient) \_\_\_\_\_, we obtained the Annual Financial Report (see accompanying Exhibit 2) and compared the actual

expenses reported to the authorized budget to report any noted instances of noncompliance with authorized budgetary limitations.

**Findings:**

3. **Procedures Performed:** From the (named recipient), we compared the bank account balances to monthly bank statements, and traced the timely clearance of significant reconciling items to report any significant or unusual instances of reconciling items that have not cleared.

**Findings:**

4. **Procedures Performed:** We traced the (named recipient) bank account transactions to reported amounts on the quarterly expenditure reports to report any significant or unusual instances of reporting.

**Findings:**

5. **Procedures Performed:** We traced the (named recipient) bank account transactions to annual reported expense amounts to report any significant or unusual instances of reporting.

**Findings:**

6. **Procedures Performed:** We compared the accounting for (named recipient) to the legal and contractual requirements of separate funds to report any noted instances of noncompliance.

**Findings:**

The accompanying Annual Financial Report of the (named recipient), Galveston, Texas as of September 30, 20XX, the related application of the (named recipient), and the related Quarterly Expenditure Report of the (named recipient) for the fiscal year ended September 30, 20XX are presented as prescribed by Texas Statutes and City Code and were not audited, reviewed, or compiled by us and, accordingly, we do not express an opinion or any other form of assurance on them.

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the specified users, as identified above, and is not intended to be and should not be used by anyone other than these specified parties.

CPA Firm Signature

Date

**ATTACHMENT F**

**HOTEL OCCUPANCY TAX RECIPIENTS  
QUARTERLY EXPENDITURE REPORT  
REQUIRED DOCUMENTATION CHECKLIST**

- \_\_\_\_\_ 1. Copy of check stub(s) received for funds from Park Board for reporting quarter.
- \_\_\_\_\_ 2. Copy of Bank Statement(s) (if applicable) for reporting quarter.
- \_\_\_\_\_ 3. Copy of all invoices for expenditures from received funds for reporting quarter.
- \_\_\_\_\_ 4. Copy of all checks written from received funds for reporting quarter.

**Report Deadline Schedule**

<b><u>Quarter</u></b>	<b><u>From-To</u></b>	<b><u>Report Deadline</u></b>
1st	October—December	March 1
2nd	January—March	May 31
3rd	April—June	August 31
4th	July—September	December 29

**Please submit all quarterly reports to:**

Director of Finance or Designee  
Finance Department  
City of Galveston  
P. O. Box 779  
Galveston, TX 77553

**Phone:** (409) 797-3586

**If hand delivering:**

3rd Floor, Suite 300  
City Hall  
823 Rosenberg  
Galveston, TX ~~77553~~77550

**ATTACHMENT G**

**MULTI-YEAR ANNUAL REPORT FORM**

City of Galveston

Arts and Historical Preservation Advisory Board

\*Multi-Year Annual Report Form

## Section 1

For the Fiscal Year ended: \_\_\_\_\_

Recipient's Name: \_\_\_\_\_

Organization: \_\_\_\_\_

## Section 2

	Revenue	Advertising / Marketing	Production	Special Events	Total Expense	Budget
Annual Budget						
Balance Forward						
October						
November						
December						
January						
February						
March						
April						
May						
June						
July						
August						
September						
Total, Current YR						
Balance Forward						
Subsequent YR						

## Section 3

I certify, to the best of my knowledge and belief, that the report above is in compliance with "The Code of the City of Galveston 1982, as amended" and "The Criteria and Selection Procedures". I further certify that the use of these funds has not changed from the original application and that such funds have been maintained in separate bank accounts and have not been co-mingled with any other funds.

Chief Executive Officer \_\_\_\_\_

**ATTACHMENT H**

**QUARTERLY EXPENDITURE REPORT FORM**

**(AS AMENDED 4/24/08)**



## City of Galveston

## Arts and Historical Preservation Advisory Board

\*Quarterly Expenditure Report (as amended on 4/28/08)

## Section 1

For the Quarter ended: \_\_\_\_\_

Recipient's Name: \_\_\_\_\_

Organization: \_\_\_\_\_

## Section 2

	Receipts	Advertising/Marketing	Production	Special Events	Check Book Balance
1. Annual Budget	_____	_____	_____	_____	_____
2. Ending Balance prior qtrtr	_____	_____	_____	_____	Box A
*(Should agree to check book balance / beginning of quarter)					
List Months Below:					
3. _____	_____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____	_____
Total Quarter	Box B	Box C	Box D	Box E	Box F
(Add lines 3-5)	_____	_____	_____	_____	_____
Box F = B+C+D+E	_____	_____	_____	_____	Box G
**Ending Balance (A+F=G)	_____	_____	_____	_____	_____
**(Should agree to check book balance / end of quarter)					

## Section 3

I certify, to the best of my knowledge and belief, that the report above is in compliance with "The Code of the City of Galveston 1982, as amended" and "The Criteria and Selection Procedures". I further certify that the use of these funds has not changed from the original application and that such funds have been maintained in separate bank accounts and have not been co-mingled with any other funds.

Chief Executive Officer \_\_\_\_\_

Attach the one page prior quarterly attachment "H" form with this report  
Back up material to the previous report is not required.